



MINUTES

CITY COUNCIL

SPECIAL MEETING

November 30, 2004

THIS IS TO CERTIFY THAT:

The San Bruno City Council met in Special Session on November 30, 2004, at the San Bruno Senior Center 1555 Crystal Springs Road, and the meeting was called to order at 7:00 p.m.

Mayor Franzella thanked the **San Bruno Garden Club** for providing the beautiful floral arrangement.

1. ROLL CALL: Presiding was Mayor Franzella with Councilmembers Ruane, Ibarra, Pallas, and O' Connell in attendance. City Clerk Simon was recording.

City Manager Connie Jackson led the PLEDGE OF ALLEGIANCE.

ANNOUNCEMENTS:

- a. The City of San Bruno and the Parks & Recreation Department presents the annual “**Holiday Tree Lighting Ceremony**” on Thursday, December 2, 2004 at 5:30 p.m. Event will be held at the Recreation Center, 251 City Park Way, in San Bruno City Park.
- b. The **14th Annual Block Lighting & Santa Arrival** on the 1900 block of Glen Avenue will be held on Sunday December 12, 2004, beginning at 5:00 p.m.
- c. Councilmember Pallas announced plans for **Senior Citizen programs** to be provided at the **American Legion Hall**, December 20-22, 2004.

Councilmember Pallas called upon American Legion Post Commander Richard Dunbar to give the plans to support San Bruno Seniors while City offices are closed this Christmas season. Commander Dunbar explained that the Legion Hall at 757 San Mateo Avenue would remain open and provide meals plus other services. Any Senior Citizens wishing to attend should sign up at the San Bruno Senior Center. In addition to the lunch there will be music, dance, and bingo. The cost is only \$2.00 for the luncheon.

- d. **The San Bruno Redevelopment Agency** meeting follows tonight's City Council meeting.

PRESENTATIONS:

Mayor Franzella presented 25-year service award and pin to Parks Field Supervisor **Jeff Madonich** and 30-year service award and pin to Fire Battalion Chief **Pat Sweeney**.

Mayor Franzella said this was a special night and an honor to recognize two employees with long service records with the City. He gave an overview of Jeff Madonich and Pat Sweeney's careers with the City of San Bruno. Both Mr. Madonich and Mr. Sweeney said it is a pleasure working in this community and thanked everyone for this recognition.

2. REVIEW OF AGENDA: **Item 9.a** was moved to the end of the agenda in order to take in conjunction with the Redevelopment Agency. **Item 12.** was moved up after the public hearings on item 5.

3. APPROVAL OF MINUTES: The regular Council meeting minutes of **November 9, 2004** were approved as submitted.

4. CONSENT CALENDAR: All items listed are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by Councilmember, citizen or staff.

a. Approve: Payroll of November 5 & 19, 2004

b. Approve: Accounts Payable of October 25, and November 1 & 8, 2004. (Council Packets only, copy is available for review at the City Clerk's office)

c. Accept: Reconciliation of General Ledger to Bank reports and the **Investment Report** dated October 31, 2004 as submitted by City Treasurer Karen Hornung.

d. Approve: Resolution authorizing the acceptance of the **Lower Sneath Lane Overlay and Striping Project** improvements and the filing of a Notice of Completion with the San Mateo County Recorder.

e. Approve: Resolution authorizing the temporary closure of the **1900 block of Glen Avenue** on Sunday December 12, 2004, 5:00 p.m. to 10:00 p.m. in connection with the annual Santa arrival.

f. Approve: Parks and Recreation Director Mazzuca recommends the City Council approve the purchase of a new 12-Passenger One Ton Van from Peninsula Ford of San Bruno for Recreation Services Programs.

g. Approve: Public Works Director Munns recommends the City Council adopt a resolution authorizing an application to the **Metropolitan Transportation Commission for the Federal Surface Transportation Program (STP)** Funding for the Surface Transportation Program (STP) Street Rehabilitation Project and committing the necessary Non-Federal Match for the Project and stating the assurance of the City of San Bruno to complete the project.

h. Approve: Public Works Director Munns recommends the City Council adopt a resolution authorizing an application to the Metropolitan Transportation Commission requesting an allocation of Transportation Development Act Article 3 Pedestrian and Bicycle Project Funding for fiscal year 2005-06 for the **Sneath Lane Bike Lane Project**.

M/S Ruane/Ibarra to approve the consent calendar and passed with a unanimous vote.

5. PUBLIC HEARINGS: (Notices have been published, posted, and mailed.)

- a.** Hold public hearing on an **appeal of the Planning Commission's** denial of a use permit to allow construction of an addition, which proposes 52% lot coverage per section 12.200.030.B.3 of the San Bruno Zoning Ordinance. Appellant, **Richard Baltzer (Owner/Applicant) of 130 Parkview Drive** San Bruno. Use permit No. 04-42, A.P. No 020-343-180, environmental determination of categorical exemption, and zoning is R-1 single family residential.

Mayor Franzella introduced and called upon Interim Community Development Director Jackson to give the staff report on this item. Mrs. Jackson requested former Associate Planner Aaron Aknin, who had presented this item to the Planning Commission, review the staff report for the City Council. City Attorney Thompson will review the legal research, which was completed on this appeal application.

Aaron Aknin gave the timeline and background on this proposed addition. He acknowledged the application was denied due to the plans not showing the rooms labeled correctly, the ramp not shown on the front elevation, plus it exceeded the lot coverage limits. Also, the applicant did not speak to the neighbors as requested by staff and the architectural review members. Staff is recommending the appeal be approved and the Planning Commission decision be overturned.

City Attorney Thompson reviewed the staff report for legal details and said the State has “preemption” and the right to say what the law is in a particular area such as small senior residential care homes. Our local zoning law mirrors the state law and we cannot limit the number of “small” facilities with 6 or less tenants. The intended use is irrelevant and you must only address the addition as to size and how it fits into the neighborhood.

Vice Mayor Ruane asked if the City Council would have any future control over the residence after the addition is approved? City Attorney Thompson said no; however, the State would have control over the use as a senior care facility. When the application comes in, the Fire Department will review and conditions will be put on to meet requirements of a senior care facility. Fire Chief Voreyer said his department would review after the applicant applies for this use.

Councilmember Ibarra asked if Fire Sprinklers are a condition required of the addition or the use as a senior care facility? Chief Voreyer said the applicant has agreed to install knowing that they would be required when the intended use is applied for.

Councilmember Ibarra asked the City Attorney if the Council could limit the amount of bedrooms a single-family residence could have? City Attorney Thompson said if there is a rational basis to do so, the Council could impose regulations but they must be applied across the board to all single-family dwellings.

Councilmember O’Connell said we currently have a “trigger” that requires more garage space if the addition exceeds a certain square feet. Mr. Aknin replied that the applicant currently has a two-car garage and would not need a third unless he exceeds 2800 square feet of living space.

Councilmember Pallas said we already know this applicant will not live in the home. He was required to talk to the neighbors and has refused. If the neighbors feel this use would increase traffic and hurt the value of their homes it is wrong. If seniors need housing, there are other facilities and the owners of the Navy site have just announced that 114 units will be built within one year.

Mayor Franzella asked Chief Voreyer how the activities at the existing 31 senior care facilities impact the Fire Department? Chief Voreyer replied that State law on these types of uses limits fire inspection cost recovery and sometimes the fee allowed does not cover the cost. The emergency services are sometimes used more often and they average 3 or 4 calls per home per year.

Mayor Franzella asked the City Attorney if there was a drain on City services due to a proliferation of these facilities would that be a reason to deny this request? Attorney Thompson replied “no”. Mayor Franzella opened the public hearing and requested the applicant address the Council.

Richard Baltzer of Parkview Drive said this is more than just a commercial business. This will be a home for seniors who need help. We need to embrace the idea that our seniors should live among us. Seniors live quiet lives and do not have cars and have few visitors. The State requires the home to be maintained in tiptop shape and if there were a problem he would resolve it.

Vice Mayor Ruane asked the applicant if he took the advice of the Planning Commission and talked to his neighbors to explain the project? Mr. Baltzer replied that he had not, because he was not comfortable doing so due to the animosity of some of the residents.

Vice Mayor Ruane asked the applicant to describe the type of home he proposes to establish. Mr. Baltzer said it would be “non-medical” and restricted to seniors over 60 years of age. Tenants would watch TV and sit in the rear yard most of the day. There would be two staff members who will live at the facility and do not drive.

Councilmember Ibarra said the staff report shows that you will have 5 bedrooms and a potential of 6 elderly residents, how will that work? Mr. Baltzer replied there would be 2 semi-private rooms and one staff room. There will be at least 1 staff member on site 24 hours per day.

Councilmember Ibarra asked the applicant to describe the ramp proposed for the side of the home. Mr. Baltzer said it would be constructed of cinder block and asphalt and will not be seen from the street. Wooden ramps are not allowed by the Fire Department.

Gary Silvestri of Parkview Drive has been a resident for 22 years. He feels there will be many calls for medical service and this will impact the neighborhood. Just because the elderly do not drive, there will be others taking them to the medical centers and there will be visitors to the home impacting the neighbors.

Sol Weiner of Parkview Drive has been a resident for 40 years. He said Mr. Baltzer never talked to him or any of his neighbors. Did Mr. Baltzer purchase this home to live in or just to establish the elderly care home for profit? Does Mr. Baltzer own other senior care homes and is he a real estate broker?

Dennis Zell, Attorney for applicant, said we are a nation of law and do not make decisions on mob rule. A City Council advised by its attorney of the law, should do what the law requires.

Art Dollosso of Parkview Drive said we were told only to discuss the 400-foot addition but then we always start talking about the elderly care use. Residents did not intent to turn their residential homes into a commercial enterprise. We have enough residential care homes to meet local need and should turn this request for an addition down.

David Paterson of De Soto Way said he has been a resident since 1950 and these homes should not be turned into moneymaking units. Keep the Parkview area a comfortable residential community.

Mark Donohue of Parkview Drive asked if everything must be brought up tonight in order to address issues at a later date and the reply was yes. The real issue is the applicant wants to make money and who will enforce all the conditions attached to the approval? Being downhill from this property, he is concerned about the drainage from this addition. Is the ramp on the South side legal and conforming to ADA standards? The applicant has built a ramp on Chestnut Avenue and it looks terrible. At the request of Mayor Franzella, Planner Aknin responded that at least one ramp with a slope of 8% or less is needed to meet ADA standards and is subject to set back requirements.

Steve Rogora of Parkview Drive said the applicant did not talk to him or any other neighbors. The applicant will not be occupying the home and doesn't care about the impacts. Parking is limited due to the City Park usage overspill and there is no room for emergency vehicles. The applicant is running a business and would you buy a house next to a senior care center? This will be an eye sore and is not needed.

Joe Sammut of San Antonio Avenue said, as a member of the Planning Commission, the primary reason for denial was the plans were not drawn properly and there was no other basis to deny the addition. It was his hope that the applicant would speak to his neighbors as requested by staff and the Commission.

City Attorney Thompson explained to the Council that they should only rely on the minutes of the Planning Commission Meeting of October 19, 2004, and not the remarks from Commissioner Sammut.

Jason Rogora of Parkview Drive said he is against the elderly care center because it would cause traffic congestion and will further impact a lack of street parking.

City Clerk Simon acknowledged a letter from **Mrs. Leroy Johnson** of Parkview Drive who was unable to make the meeting tonight, but wanted to protest the addition, sighting traffic and parking congestion as a major concern.

M/S Ruane/Pallas to close the public hearing and passed by unanimous vote.

Mayor Franzella requested the City Attorney respond to questions raised by the public regarding local need for elderly care units and the Chair's ability to ask personal questions of the applicant.

Attorney Thompson said applying local need is allowed at other facilities but not at substance abuse or senior care facilities of 6 or less units. It would not be appropriate to ask personal questions of the applicant unless this was a larger facility with Council authority to regulate.

Councilmember Pallas said he takes offense with the remarks of the applicant's attorney. There is no mob rule, just the rights of citizens to attend a public meeting and make their comments known.

Vice Mayor Ruane asked about conditions of approval. The reply was the Council could use the same ones as the Planning Commission approved or adopt new ones.

Councilmember O'Connell asked if the six homes approved this year with similar request for an addition, had any problems with the neighbors or different conditions added to the approval? Planner Aknin said there has been no negative feedback with the first story additions approved this year.

Councilmember O'Connell asked staff members to respond if they had received any complaints on the existing 31 senior care homes? Planner Aknin, Fire Chief Voreyer, and Police Chief Violet, all responded that no complaints have been received.

Councilmember Ibarra said he lives in the area and also knows the Planning Commission has approved similar applications for additions. He takes exception to the applicant patronizing the neighbors and he wishes the applicant had spoken to his neighbors as requested. He would not like this facility next door to his home, but feels the State has tied his hands. Unfortunately, the applicant will set up the elderly care home and leave without concerns for the neighborhood.

Councilmember Ruane said the State of California has preempted our right to make local zoning decisions of this type. The applicant has created a large black whole with misinformation spreading throughout the neighborhood because he did not meet with neighbors as requested by the Planning Commission. As a conditional of approval he wants the "Regional Community Care Licensing Division", which is located in San Bruno on Traeger Avenue, to hold a meeting with all effected neighbors to explain their legal rights and how to settle any problems that might occur.

M/S Ruane/O’Connell to overturn the Planning Commission’s denial and uphold the appeal with the condition that staff arrange the meeting with neighbors and the Community Care Licensing Division. **Councilmember Pallas** said he would not support the motion because he believes the intended use will be detrimental to the neighborhood.

Mayor Franzella said the State of California has pretty much dictated what the Council can do. This same use permit has been granted to six other applicants this year. He can find no grounds to deny the 400-foot addition because the owner will retain the home as a single story dwelling with very little impact to the neighborhood. All Cities, including Hillsborough and Atherton operate under the same law and if someone wanted to spend that kind of money, he or she could open a senior care home in any City in California. It makes no sense to say no, end up in court with a \$40,000 legal bill, and still have the same result.

Mayor Franzella called for the vote on the motion with Ayes Franzella, Ibarra, O’Connell, and Ruane, and No Pallas. **Mayor Franzella** clarified the motion included the same conditions as the Planning Commission imposed plus the neighborhood meeting to be held by staff members.

Mayor Franzella called for a 2-minute recess at approximately 9:00 p.m.

Mayor Franzella reconvened the City Council meeting at approximately 9:05 p.m.

- b. Hold public hearing and consider approval of the issuance by the California Statewide Communities Development Authority of multifamily housing revenue bonds in the aggregate principal amount of approximately \$20,000,000 the amount of which will be applied to the financing of the acquisition and construction of a 114-unit multifamily residential rental facility to be commonly known as **The Crossings Senior Apartments** (the "Project") to be located at the Northwest corner of the intersection of National Avenue and Commodore Drive in the City of San Bruno, California.

Councilmember Ibarra said the City Attorney has informed him that he will not have to abstain on this item since there is no financial interest.

Housing & Redevelopment Agency Manager Sullivan gave the staff report and explained the project the KDF Communities has proposed for the former Navy Site. The multi-family housing bonds would finance the 228 senior housing units. This application is for the first phase of 114 units since there is a maximum amount of bonds, which can be applied for at one time. Additional information has been given the City Council at the Study Session held prior to the Council meeting tonight. The Internal Revenue Code requires that a public hearing be noticed and held to give all parties an opportunity to speak. There is no financial obligation on the City of San Bruno.

Mayor Franzella opened the public hearing and asked if anyone wished to address the Council. With no one requesting to speak, **M/S Ibarra/Ruane** to close the public hearing and passed with a unanimous vote.

Councilmember Ibarra introduced the resolution for adoption and a roll call vote of all Ayes.

Item 12. Was moved up and member **James Craib** gave a brief power point presentation to the City Council on the activities and future goals of the **Bicycle and Pedestrian Advisory Committee**. Four bike racks have been purchased and efforts are underway for grant funding of bikeways along Sneath Lane.

Councilmember Ibarra said the members of the committee are very sharp and experienced in bicycle riding. We all appreciate their hard work.

Dave Nigel the Parks & Recreation Commission representative invited the public to come to the monthly meetings. Pedestrian safety is just as important and the City of San Bruno has many corridors with problems, which will need solving.

Mayor Franzella thanked the committee for all their work and the amazing amount of accomplishments in such a short period of time.

6. UNFINISHED BUSINESS: None

7. CALL FOR, PRESENTATION OF BIDS, and AWARD OF CONTRACTS: None

8. COMMUNICATIONS: None

9. STAFF REPORTS:

- a. City Manager Connie Jackson presented the FY 2004-09 Five Year **Capital Improvement Program** and FY 2004-05 **Capital Improvement Program Budget**. This item was moved to the end of the meeting to be taken up with the Redevelopment Agency Meeting.
- b. Cable TV Director Gyaltsen recommended the City Council adopt a resolution establishing an updated **Cable Television Promotional Account Policy**.

Director Gyaltsen gave the staff report and explained the reasons for the change in policy. Former employees would no longer be eligible for promotional accounts. The CATV Council Sub-Committee has reviewed this new policy and is recommending approval.

Councilmember Ibarra clarified that all schools would be provided service and the Senior Center will now have free Internet service.

Councilmember O'Connell, as a member of the Ad-Hoc committee, thanked Mr. Gyaltsen for all the hard work and time that went into updating this policy.

Vice Mayor Ruane introduced the resolution for adoption with a roll call of all Ayes.

- c. Public Works Director Munns recommended the City Council adopt a resolution **authorizing the submittal of an AB 303 Groundwater Management Grant Proposal** to the State Department of Water Resources in the amount of \$249,870 for the construction of groundwater monitoring wells, well sampling to identify potential saltwater intrusion and analysis, and the development of a Hydrologic Database Management System.

Director Munns gave the staff report indicating the purpose of the grant request was to obtain 2 ground water monitoring wells to identify any salt-water intrusion into our water aquifer. Staff has received a number of letters of support from citizens and the San Bruno Park School District. Mr. Ali Taghavi, the City's consultant, presented overhead slides describing the groundwater basin and the potential for the movement of saltwater.

Councilmember Pallas said there is no mention of “recaptured” water in the report and we have two fresh water creeks that drain into the Bay and the water is lost. City Attorney Thompson said this grant is only for the monitoring wells and we must stay focused on this narrow issue only.

Councilmember Pallas said he had heard that there is an underground river running through San Bruno.

Councilmember O’Connell introduced the resolution for adoption and it passed with all Ayes.

10. REPORT OF CITY ATTORNEY - RESOLUTIONS & ORDINANCES: None

11. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:

Rose Urbach of Euclid Avenue corrected her statement of 11/09/2004. The tables, which were, rough and in need of sanding are at the old Fireman’s Hall on San Mateo Avenue not the Senior Center. Volunteers had received splinters during the last election.

12. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:

The San Bruno Bicycle & Pedestrian Committee presented an oral annual report to the City Council. (This item was moved up to be heard after item 5.b.)

13. NEW BUSINESS:

Mayor Franzella reported on his trip with Vice Mayor Ruane to our sister city Narita Japan in order to celebrate its 50th anniversary. Both the Mayor and Vice Mayor paid their own expenses and thoroughly enjoyed the visit. **Vice Mayor Ruane** said this was his first trip and he was treated like royalty. He looks forward to the Narita Officials visit to San Bruno next year.

Mayor Franzella requested the San Bruno Redevelopment Agency Board be called to order at the same time as the City Council since the Capital Improvement Budget is on both agendas and covers both entities. (See minutes of 11/30/04 from the San Bruno Redevelopment Agency for minutes regarding the CIP budget.)

14. ADJOURNMENT:

With no further business to transact, meeting adjourned to the regular City Council meeting of December 14, 2004, starting at 7:00 p.m. at the San Bruno Senior Center 1555 Crystal Springs Road.

**Respectfully submitted for approval at
the San Bruno City Council meeting
of December 14, 2004**

Ed Simon, City Clerk

Larry Franzella, Mayor